

Customer No. 24498
Internal Docket No. PD040023
Office Action Date: 06/18/2009

Remarks/Arguments

Claims 1-6 are pending. The claims have been amended to more clearly and distinctly claim the subject matter that applicant regards as his invention. No new matter is believed to be added by the present amendment.

Objection to claims 1-6 under 35 USC 112, second paragraph

Responsive to the rejection of claims 106 under 35 USC section 112, second paragraph, the subject claims have been amended to replace the phrase "said sub matrices are linearly independent" with the phrase based on the disclosure on page 2, lines 29-31 and page 8, line 29 to page 9, line 2 of the application as filed. Applicant submits that the rejection is overcome since the matrix MhFull having rank "N" automatically implies that the sub-matrices "a" and "b" are linearly independent from each other.

Rejection of claims 1, 2, 5 and 6 under 35 USC 101

Applicant submits that for the reasons discussed below amended claims 1, 2, 5 and 6 are directed to statutory subject matter and satisfy the requirements of 35 USC 101.

In the recent Bilski decision, the Federal Circuit, sitting en banc, set forth the test that claimed subject matter satisfies the statutory requirements of 35 USC 101 if the process is 1) tied to a particular machine, or 2) transforms an article into a different state of thing. In re Bilski, No 2007-1130 (Fed. Cir. Oct. 30, 2008), at 24. In setting forth the basis for test, the court explained that "The question before us then is whether Applicants' claim recites a fundamental principle and, if so, whether it would pre-empt substantially all uses of that fundamental principle if allowed ... The Supreme Court, however, has enunciated a definitive test to determine whether a process claim is tailored narrowly enough to **encompass only a particular application of a fundamental principle rather than to pre-empt the principle itself.** (emphasis added)"

Applicant respectfully submits that the amended claims satisfy at least the first prong of the test, and the general principle that the claim is sufficiently tailored narrowly enough to encompass a particular application rather than a fundamental principle.

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Claim 1, for example, recites "Method, comprising: receiving by **an audio signal processor** a digital audio signal in the time domain; and transforming by the audio signal processor the **digital audio signal** from the time domain into a different domain, comprising ..." (emphasis added). In this case the process is performed by an audio signal processor which is a specific machine or apparatus designed to perform processing of certain types of digital signals, namely audio signals. Here, the claim has been amended to recite the audio signal processor in the body of the claim and as such, the claimed process sufficiently tied to a machine and is sufficiently tailored to encompass a particular application, that is, the transformation of the digital audio signal by a digital audio processor.


Claim 2 has been amended in similar fashion as claim 1.

In view of the above, applicant respectfully submits that claims 1, 2, 5 and 6, satisfy the "machine" or "transformation" test, and thus, satisfy the requirements of 35 USC 101.

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Having fully addressed the Examiner's rejections it is believed that, in view of the preceding amendments and remarks, this application stands in condition for allowance. Accordingly then, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the applicant's attorney at (609) 734-6815, so that a mutually convenient date and time for a telephonic interview may be scheduled.

Respectfully submitted,
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